

REMARKS

In the Office Action dated July 8, 2008, all of the pending claims (1-48) were rejected under 35 U.S.C. 103(a) as being unpatentable over Maahs (U.S. 5,846,260) in view of Tanner et al. (U.S. 6,635,066) and further in view of Corcoran et al. (U.S. 6,656,206). With this response, previously presented claims 1-10 and 12-48 are submitted for reconsideration and allowance.

Independent claims 1, 15, 26, and 37 all require a sheet attached to ribs such that a barrier is formed to prevent blood from entering or exiting the left atrial appendage. The device disclosed by Maahs is incapable of forming a barrier because it is designed with mesh that entraps embolic material “without substantially impairing blood flow through the vessel”. (Maahs ’260, col. 3, ll. 60-61). The device of Maahs is specifically designed to allow blood flow through its mesh and could not perform as the blood filter Maahs intended if it were altered to prevent blood flow like the presently claimed occlusion device. (Maahs ’260, col.7, ll. 37-39).

Since Maahs performs a different function than the present invention, it would have not been obvious to redesign the materials used or dimensions of the device in order to perform a completely new, and somewhat conflicting, function. In addition, while Maahs discloses use of a self-expanding foam (82) to fill a notch of strut (75), Maahs does not teach the use of foam to form the mesh filter material. In fact, Maahs more accurately teaches away from the use of a foam sheet in place of the mesh filter material described because Maahs emphasizes the need to prevent impairment of the flow of blood through the filter in which it is deployed. As described with respect to the present invention, use of a foam sheet in conjunction with frame results in a device which upon deployment forms a barrier to effectively prevent the flow of blood from entering and exiting the LAA.

To render an invention obvious, the cited references must disclose, teach, or suggest all of the claim limitations. As described above, Maahs does not disclose, teach or suggest the barrier element present in the independent claims. Furthermore, neither Tanner nor Corcoran supplies the missing teachings. If an independent claim is nonobvious, then any of the claims

depending therefrom are likewise nonobvious. *See* MPEP § 2143.03 (*citing* In re Fine, 5 U.S.P.Q2d (BNA) 1596 (Fed. Cir. 1998)). Therefore, claims 1-10 and 12-48 are not obvious, and the rejection under 35 U.S.C. § 103(a) is overcome.

In view of the foregoing, all of the pending claims (1-10 and 12-48) are believed to be in a condition for allowance. Notice to that effect is respectfully requested.

The Commissioner is authorized to charge any additional fees associated with this paper or credit any overpayment to Deposit Account No. 11-0982.

Respectfully submitted,

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